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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) CR NO. 07-00788 LHK (NJV)
Plaintiff,)
vs.) (1) UNOPPOSED MOTION TO WAIVE
DANIEL RANGEL,) DEFENDANT'S PERSONAL
Defendant.) APPEARANCE AND COUNSEL'S
) APPEARANCE AT HEARING, AND
) (2) ~~[PROPOSED]~~ ORDER THEREFORE
) Date: June 20, 2012
) Time: 10:00 a.m.
)
)

The government and Mr. Rangel have reached a settlement agreement. The government has referred Mr. Rangel to Pretrial Services for pretrial diversion, which should lead to the dismissal of the charges at the end of the one year diversionary period. However, I am informed that Pretrial Services requires a period of weeks to process the diversion request and accept Mr. Rangel into the program. I have no control over the timing of Pretrial Service's approval process, but I do not anticipate any problems in this regard.

In light of the settlement agreement, and in order to conserve CJA funds, undersigned counsel is no longer working on trial preparation or related tasks. In addition, absent an order to the contrary, undersigned counsel expects to be out of the state on June 20.

Mr. Rangel, as the Court knows, has appointed counsel, and his job as a long haul truck driver requires him to travel constantly throughout the United States. It is a hardship for him to take time off of work and travel to California for hearings at his own expense.

In light of the settlement agreement, and the fact that Mr. Rangel does not expect to participate in the upcoming trial, it would appear that Mr. Rangel would not be required to participate in the pretrial conference or any further court appearances; certainly his participation would seem to serve no purpose. However, in light of the administrative process (which is not usual in settlements that end via plea) and this Court's prior orders regarding attendance at hearings, undersigned counsel is filing this unopposed motion to waive appearance out of an abundance of caution.

Accordingly, we respectfully request that both Mr. Rangel's appearance and his counsel's appearance at the June 20 pretrial conference be waived. Should the Court deem it necessary to hear from undersigned counsel at that hearing, counsel respectfully requests the opportunity to appear by telephone via Court Call. The government attorneys, Messrs. Nedrow and Schenk, have graciously stated that they do not oppose the above requests.

Attached hereto is a declaration by Mr. Rangel waiving his personal appearance at the June 20 hearing. It was explained to him by a certified Spanish interpreter.

/s/ Mark D. Eibert

MARK D. EIBERT
Attorney for Defendant Daniel Rangel

ORDER

Good cause appearing therefore, it is hereby ORDERED that defendant Daniel Rangel and his attorney are excused from attending the June 20, 2012 hearing in the above case.

Dated: June 14, 2012

HON. LUCY H. KOH
UNITED STATES DISTRICT JUDGE